

Understanding The Powers And Duties Of The Township Board Of Zoning Appeals



STARK COUNTY
REGIONAL PLANNING
COMMISSION

This pamphlet has been prepared to assist the public in understanding the powers and duties of the Board of Zoning Appeals. The following outline has been adapted from the *Ohio Revised Code*, Sections 519.13-519.15, inclusive.

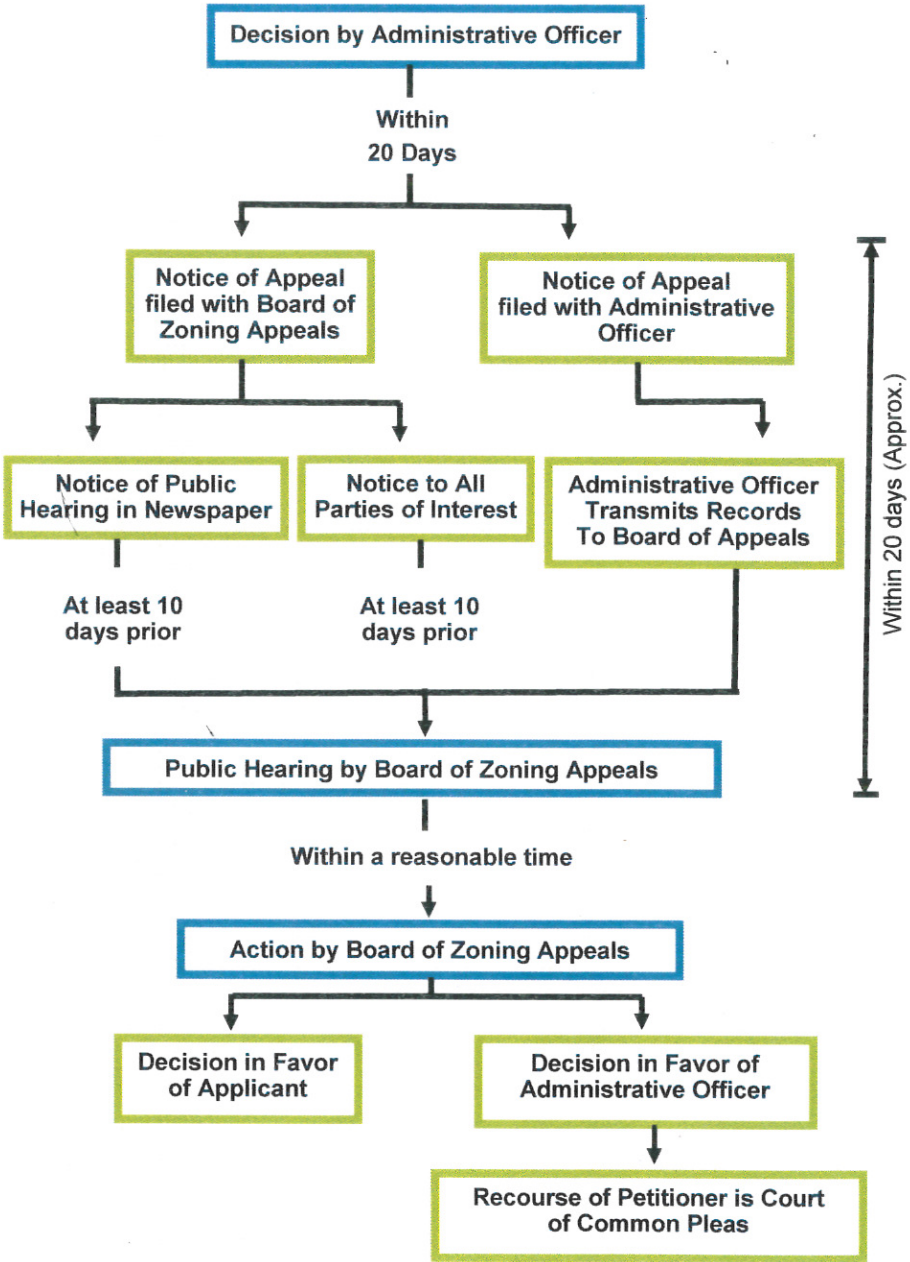
Board of Zoning Appeals

1. **Ohio Revised Code requires** that a board of zoning appeals shall be established as a part of every zoning resolution.
2. **A five member board of residents** from the unincorporated territory that is zoned shall be appointed by the Board of Township Trustees. Two alternate members may also be appointed.

Powers and Duties

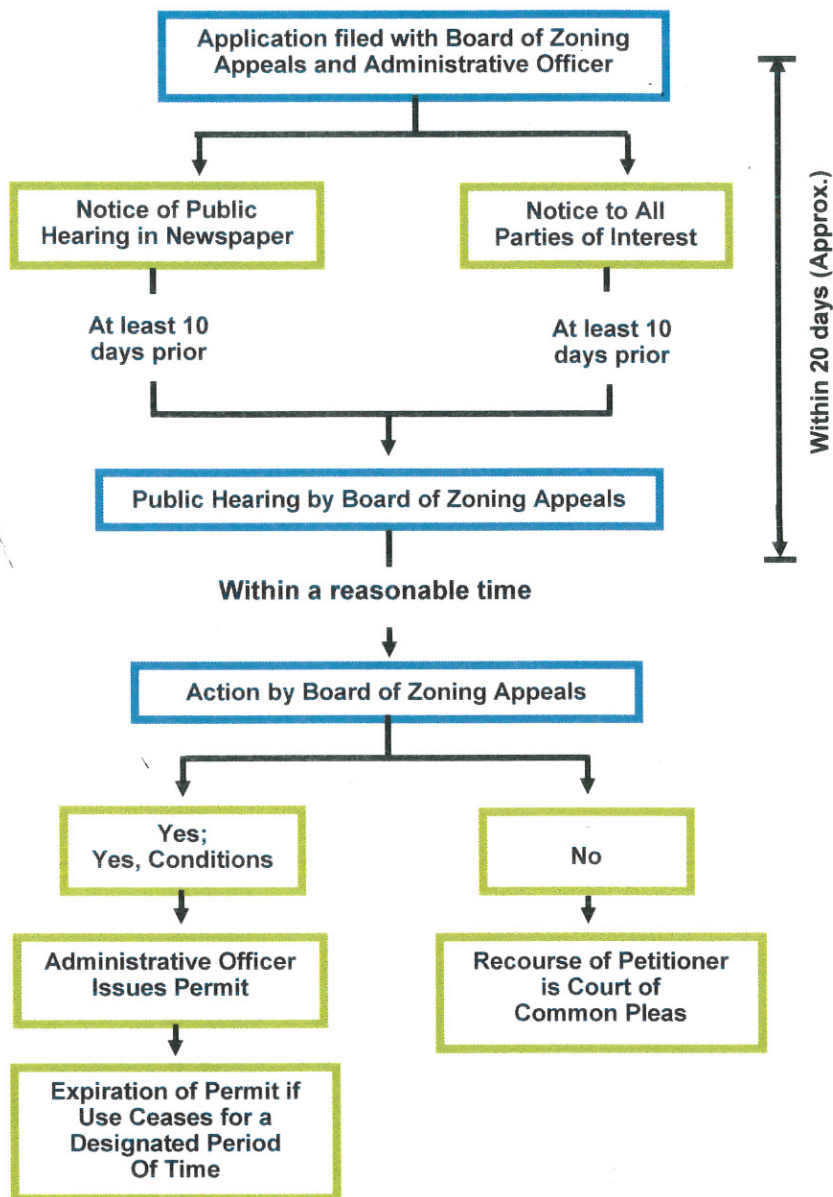
1. **Hear and decide appeals** where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of Sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto.
2. **Authorize, upon appeal, in specific cases, such variance** from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done.
3. **Grant conditional zoning certificates** for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the zoning resolution.
4. **Revoke an authorized variance or conditional use certificate** granted for the extraction of minerals, if any condition of the variance or certificate is violated.

Figure A
Procedure for Appeal of Administrative Official Decision



Note: Filing fee is set by individual township.

Figure B
Recommended Procedure for Conditional Use



Note: Filing fee is set by individual township. Annual renewal fee applicable in some townships. Some conditional use certificates are valid only for a set period of time and must be renewed upon proper application and review.

The Following Questions and Answers Help To Explain The Various Duties and Powers of The Board of Zoning Appeals

What is An Appeal?

When a resident feels they have been wronged by a decision of the administrative official, they can appeal that decision to the Board of Zoning Appeals. A "Notice To Appeal" must be filed within twenty (20) days of the administrative official's decision.

The Board of Zoning Appeals will determine the validity of the appeal and proceed with deliberations to arrive at a fair and equitable decision.
(See Figure A)

What is a Conditional Zoning Certificate?

A conditional zoning certificate is for a special use having some uncommon or unique characteristics, which is specifically listed and permitted in a particular zoning district.

Most zoning regulations provide for conditional uses in their zoning resolution, which may be different from district to district.

A conditional use is a permitted use in the districts specified, provided there is compliance with the conditions as listed in the zoning resolution.

Conditions which are listed and designed to protect the character of the area and promote the public health, safety and welfare may vary from one conditional use to another.

The Board of Zoning Appeals holds a public hearing on the conditional use application and reviews the conditions. If they are satisfied that the conditions as outlined in the zoning resolution have been met, the applicant is entitled to a conditional use permit.

(See Figure B)

What is a Variance?

A variance is a deviation from the strict requirements or literal enforcement of the zoning resolution, where such deviation will not be contrary to the public interest and owing to conditions of the property and not the result of actions by the owner. A variance would grant relief to a particular property owner from requirements that would otherwise result in an "unnecessary hardship" or "practical difficulty."

Area vs. Use Variances

In most zoning resolutions, the term "unnecessary hardship" is referred to as the condition that must be proven to the Board of Zoning Appeals before a use variance can be granted. "Practical difficulty" is a less stringent standard which is used for an area variance.

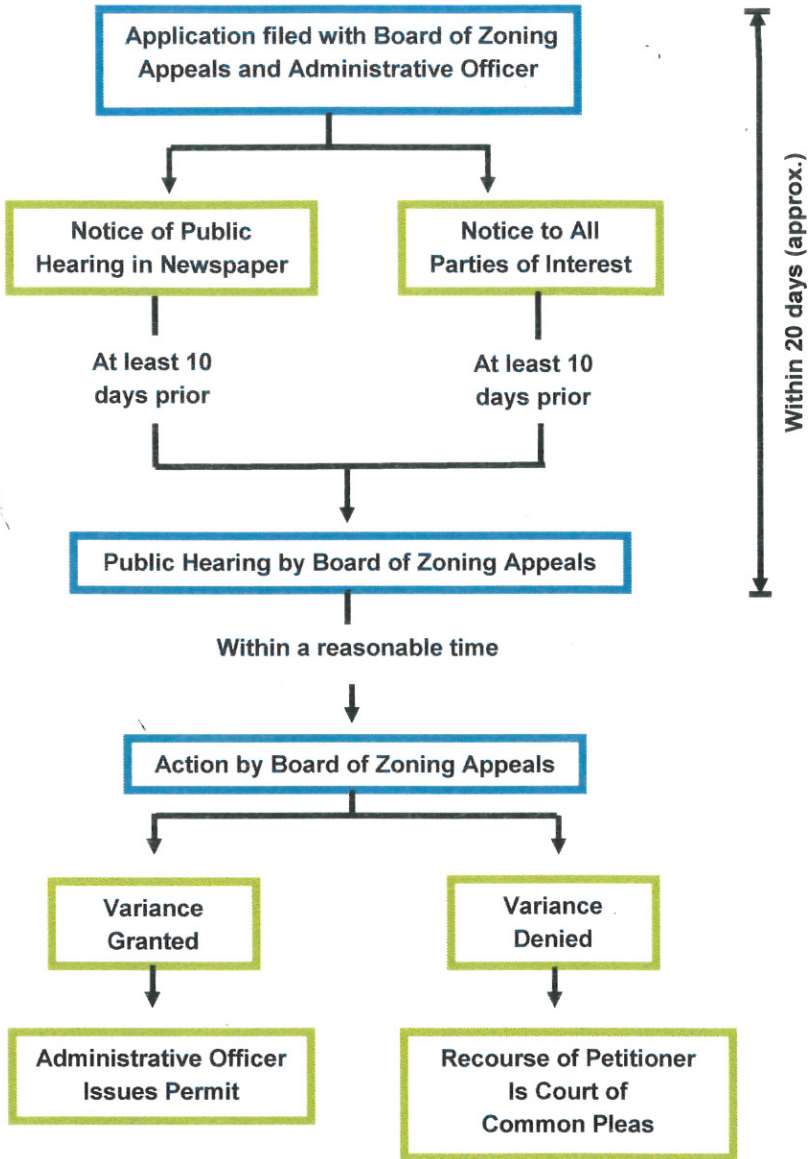
Either standard is considered as to facts relating to one particular parcel of land and not a general condition affecting other properties. Each request should be considered individually and result from the strict application of the zoning resolution and not a self-imposed hardship brought on by the property owner.

Questions to Ask Yourself Before Approving a Variance

1. Does the size or shape of the property deprive the owner of rights commonly enjoyed by other properties in the same district?
2. Is it impossible to use the premises in a manner permitted by the zoning resolution?
3. Can the hardship be alleviated without substantially affecting the general purpose and objectives of the zoning plan?
4. Is a variance really what they should apply for, or should they apply to have their property rezoned to a different classification?

(See Figure C for Variance Procedure)

Figure C
Procedure for Variance From Zoning Resolution



Note: Filing fee is set by individual township.

Note: This pamphlet is an outline of the powers and duties of the township board of zoning appeals. O.R.C. Sections 519.13—519.15 inclusive, should be reviewed for specific language and current law.



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